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**Telecommunications Transaction Tax Centralized Administration Project—
Proposal I, State Imposition, State Administration**

**MTC Work Group Teleconference Meeting
For Discussion Purposes Only
10/26/11**

I. Preservation of Local Authority

This chapter does not supersede, impair, or grant the right, if any, of a local taxing jurisdiction to require the payment of consideration or to require the payment of regulatory fees or assessments by persons using or occupying its roads or rights-of-way in a capacity other than that of a seller or purchaser of communications services.

II. State Level Administration

A. The state tax administrator shall administer and collect transaction taxes imposed by the state. Sellers or purchasers of communications services that are subject to state transaction tax on communications services are required to register with, file returns with, and remit amounts to the state tax administrator.

B. The state tax administrator shall conduct, or authorize others to conduct on its behalf, audits of such sellers and purchasers for the transaction tax on communications services. If permitted by state law, the state tax administrator may authorize audits of communications service providers to be conducted or performed by others on behalf of the state tax administrator so long as: (1) the person is conducting the audit for all local taxing jurisdictions within the state; (2) the person is subject to the same confidentiality provisions (and other protections afforded a taxpayer) as a person working for the state tax administrator; (3) the audit does not cover an audit period already conducted by the state tax administrator or other person acting on its behalf, absent fraud or mutual consent; and (4) the audit is subject to the same administrative and appeal procedures granted to audits conducted by the state tax administrator.

C. Audits performed by the state tax administrator may include a determination of the seller's or purchaser's compliance with the jurisdictional situsing of the end user's service addresses.

III. Registration

Each person seeking to engage in business as a communications services provider must file with the state tax administrator an application for a certificate of registration. No local taxing jurisdiction shall require a person to apply to the jurisdiction for a certificate of registration to engage in business within that jurisdiction.

IV. Rates and Boundary Changes

A. For each local taxing jurisdiction within this state that levies a tax on telecommunications services, the state shall

1. Provide that local rate changes will be effective only on the first day of a calendar quarter after a minimum sixty days' notice to the telecommunications provider.
2. Apply local taxing jurisdiction boundary changes only on the first day of a calendar quarter after a minimum sixty days' notice to the telecommunications provider.

B. The state shall

1. Provide and maintain a database that describes boundary changes for all taxing jurisdictions. This database shall include a description of the change and the effective date of the change for local telecommunications transaction tax purposes.
2. Provide and maintain a database of all local telecommunications transaction tax rates for all of the jurisdictions levying taxes within the state. For the identification of states, counties, cities, and parishes, codes corresponding to the rates must be provided according to Federal Information Processing Standards (FIPS) as developed by the National Institute of Standards and Technology. For the identification of all other jurisdictions, codes corresponding to the rates must be in the format consistent with that maintained by the state revenue agency.

If the state revenue agency does not maintain a database, it shall certify automated systems (CAS) to aid in the administration of local telecommunications transaction taxes. The state may certify a software program as a CAS if it determines that the program meets all of the following requirements:

- i. It determines the applicable local tax rate for a telecommunications transaction;
- ii. It determines whether or not a transaction is exempt from tax;
- iii. It determines the amount of tax to be remitted for each taxpayer for a reporting period;
- iv. It can generate reports and returns as required by the state tax administrator; and
- v. It can meet any other requirement set by the state tax administrator.

3. Have the option of providing address-based boundary database records for assigning taxing jurisdictions and their associated rates. The database records must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C.A. Sec. 119(a)).

V. Returns

A. Every provider of communications services maintaining a place of business in this state shall, on or before [calendar period], make a return to the state tax administrator, stating:

- (i) Its name.
- (ii) The address of its principal place of business or the address of the principal place of business (if a different address) from which it engages in the business of providing communications services.
- (iii) The total amount of gross charges billed by it during the [calendar period] for providing communications services and upon the basis of which the tax is imposed.

B. The state tax administrator shall:

- (i) Require that a return by a provider of communication services be due no sooner than the twentieth day of the month following the month in which the transaction occurred.
- (ii) Make available to all providers of communications services a simplified return that is filed electronically.

VI. Allocation and Distribution of Tax

A. The state tax administrator shall provide for the collection of transaction taxes on communications services and the distribution of such amounts to each appropriate local taxing jurisdiction.

B. Notwithstanding any law to the contrary, the proceeds of all transaction taxes on communications services levied by this state for distribution to local taxing jurisdictions shall be transferred to Local Trust Fund and held there to be timely distributed to such local taxing jurisdiction. The state tax administrator may promulgate rules for the reasonable allocation of transaction taxes on communications services to local jurisdictions. Such transaction taxes shall not be withheld or reduced by the [state legislature] for any reason.

C. For purposes of this [section], the Local Trust Fund shall be created and maintained by the state tax administrator. The state tax administrator may promulgate rules for the maintenance of the Local Trust Fund consistent with state law.

VII. Authority of State Tax Administrator to Promulgate Rules

A. The state tax administrator may promulgate rules to administer and enforce the assessment and collection of the taxes, interest, and penalties.

B. To administer the transaction tax on communications services, the state tax administrator may adopt rules relating to:

(i) The filing of returns and remittance of tax, including provisions concerning electronic funds transfer and electronic data interchange subject to reasonable exceptions determined by the state tax administrator.

(ii) The determination of customer service addresses, consistent with federal and state law.

(iii) The interpretation or definition of any exemptions or exclusions from taxation granted by law.

(iv) The records and methods necessary for a provider of communications services to demonstrate the exercise of due diligence.

(v) The registration of providers of communications services.

(vi) The types of books and records kept in the regular course of business which must be available during an audit of a seller's or purchaser's books and records and examples of methods for determining the reasonableness thereof. Books and records kept in the regular course of business include, but are not limited to, general ledgers, price lists, cost records, customer billings, billing system reports, tariffs, and other regulatory filings and rules of regulatory authorities. Such records may be required to be made available to the

state tax administrator in an electronic format when so kept by the seller or purchaser. The seller or purchaser may support any allocation of charges with books and records kept in the regular course of business covering the seller's or purchaser's entire service area, including territories outside this state. During an audit, the state tax administrator may reasonably require production of any additional books and records found necessary to assist in its determination.

(vii) The procedure for claiming a refund or credit of transaction tax imposed on communications service.